

THE BEND BULLETIN.

VOL. V

BEND, OREGON, FRIDAY, NOVEMBER 22, 1907.

NO. 36

IRRIGATED LANDS

—WITH—
PERPETUAL WATER RIGHT

\$15.00 TO \$40.00 PER ACRE

185,000 acres in the Des Chutes Valley.

60,000 acres now under 250 miles of completed canals.

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J. H. WENANDY, Prop.

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Stages leave each way every day.

Rigs to all parts of Central Oregon. Careful drivers furnished

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MONEY FOR STREETS

Bend Wins in Its Demand for Road Funds.

WILL AMOUNT TO ABOUT \$200

District Attorney Menefee Renders Opinion that City is Entitled to 50 Per Cent of Road Taxes.

It is now practically a foregone conclusion that the city of Bend will have turned over to it, 50 per cent of the road taxes collected in the city during the years 1904, 1905 and 1906, this money to be expended in the improvement of its streets. During last September the city council presented a demand for this money to the county court, basing their demand on the law which says that 50 per cent of the road tax collected in any road district shall be expended in that district for the improvement of roads, under the supervision of the county roadmaster. As the city of Bend had previously been created a road district in and by itself, the council held that the above law was applicable in this case. Hence they made a demand for the money.

Judge Bell had always refused to deliver any money to the city for the reason that he was not sure of the meaning of the law. Consequently when this last demand was presented, he referred it to District Attorney Menefee and asked the district attorney for his opinion covering the point at law involved. This has led to more or less correspondence between Attorney Menefee and Attorney Benson of Bend, who was employed by the city to attend to the matter. The district attorney wrote Mr. Benson that if the city could show that it had been created a road district in and by itself, he would advise the county court to turn over the money. Attorney Benson thereupon sent to Mr. Menefee a certified copy of the order of the county court that established the municipality of Bend as a separate road district. In response to which Attorney Benson received the following letter:

THE DALLES, Oregon, Nov. 16, 1907.—C. S. Benson, Esq., Bend, Oregon.—Dear Sir: Your letter of the 11th inst., enclosing certified copy of order of the county court establishing the municipality of Bend as a separate road district is duly received.

In one respect you understand my position correctly with reference to the road tax for the town, but in another respect you do not. I had no idea that a record would be found to the effect that Bend was a road district by itself. This, I think, unquestionably entitled the territory within the municipality to 50 per cent of the road tax collected from property situated therein. However, I do not think that the town of Bend has a right to demand this money to be expended by the city authorities. I think that the jurisdiction of the county court is still in existence with reference to road matters in the town of Bend, and that it was the duty of the county court to appoint a road supervisor for that road district the same as any other. If they have done so this supervisor is entitled to the money. If they have not, I think a mandamus proceeding would lie to compel the court to appoint the supervisor of that district, in case they refuse to do so after being properly petitioned so to do.

In other words, I think that the county court does not lose control of the expenditure of the money within the corporate limits by reason of it being an incorporated town; that the money should be expended through a road supervisor appointed by the county court. Now, if that road district comprises Bend and territory outside of the town, as I said in my former letter, the court would have to pay the money to the road district and the supervisor would have a right to use a just proportion of it on the road and highways within the corporate limits. There being no territory outside of the corporate limits comprised in the district would not change the situation

as I view it. I have not written the county court since receiving your last letter but will wait until I hear from you and see if you can show me some way where my position is not correct. If you can and I become convinced to the contrary I will then take up it with the court. Yours very truly,
FRANK MENEFEE.

It is seen by the above letter that the district attorney is of the opinion that this money should be expended on the city's roads, but by a road supervisor—not by the city authorities. Attorney Benson, on the contrary, believes that the intent of the law is that the money should be expended by the city authorities, and expressed his reasons therefore in the following letter to the district attorney:

BEND, Oregon, Nov. 20, 1907.—Frank Menefee, Esq., District Attorney, The Dalles, Oregon.—Dear Sir: Your favor of the 16th at hand and contents noted. In my former letter to you regarding the claim of the city of Bend for 50 per cent of road taxes, I did not lay stress upon the manner in which payment should be made to the city for I considered that a matter of detail. Upon a particular examination of the statutes upon that point it seems to me that this money should be turned over to the municipality of Bend to be expended by the governing body thereof upon its streets and without control in any manner by the county court.

By Section 2720 of Title 27, B. & C. Code, relating to the government of cities and towns, under which title the city of Bend is incorporated, power is given the city council to improve and repair the city's streets and to lay out same, in terms giving the municipality COMPLETE and EXCLUSIVE control of all thoroughfares within the municipal boundaries. By Section 58, P. 279, Laws of 1903, the county courts of the various counties are given full jurisdiction over all streets and alleys in UNINCORPORATED towns in the same manner and to the same extent as in the case of public highways generally.

If the provisions of Section 68, P. 282, Laws of 1903, empowering the county courts to appoint district road supervisors, were universal in their application, it is difficult to see why Section 58 was enacted. I submit that the reason it was enacted is that the legislature wished to lay down the distinction between incorporated and unincorporated cities and towns in this particular, and in Title 27 and particularly in Section 2720, having vested the exclusive control of public thoroughfares within their limits in the governing bodies of incorporated cities and towns, it declared in plain terms by Section 58 that these provisions should not apply to UNINCORPORATED cities and towns.

It would seem that the county court might have had this construction in mind when it created the road district of Bend, since in terms the city and the road district are identical so far as boundaries are concerned and hence the city council has jurisdiction over the entire territory of the road district; no more and no less. Had not the boundaries been identical, confusion would result from the interpretation I claim.

For these reasons, I think the city can fairly claim that the money claimed should be turned over to be expended solely by its governing body, without control on the part of the county court.

Hoping to get your opinion on the views herein expressed, at an early date, I am, Respectfully,

C. S. BENSON.

If the district attorney still holds to the opinion that the money should be expended under the supervision of a road supervisor duly appointed by the county court, the plan is for the city council to appoint someone to a similar office and then have the county court appoint the same person as road supervisor for the district of Bend. The city will thus attain the desired end, and will have the money spent as it wishes.

Wants Increase of Lien.

Van B. DeLashmuth, the Portland capitalist who is figuring on taking over the Columbia Southern segregation, was very well pleased with prospects and with the amount of water available for reclaiming the segregation. However, he naturally desires to make a profit on the transaction if he takes over the project, and wants an increase of lien granted. If he secures that he will go ahead with the work. Speaking of this feature the Laidlaw Chronicle said:

Mr. DeLashmuth holds a 90-day option on the segregation and after his investigations had been completed he stated to us that if the State Land Board would grant him an increase of lien as was done by the Board in the case of the Deschutes Irrigation & Power Company he would exercise his option and assume control of the project.

ELECTION DAY SOON

Will Choose City Officers on December 3.

BUT LITTLE INTEREST SHOWN

Mayor, Recorder, Treasurer, Marshal and Four Aldermen on the List to Be Elected.

According to the calendar, a week from next Tuesday, December 3, will be the date for municipal elections in Bend. At present it promises to be a very quiet affair, and the political pot has not even begun to simmer as yet. Evidently it would be impossible to get up a "boil" in that staid old receptacle under the present degree of interest. During the time intervening between now and election, however, the politicians of the city may get their heads together and may begin to draw up "slates," but there has been very little of that so far.

The offices to be filled consist of the following: A mayor, recorder, treasurer, and marshal; an alderman for term of one year to succeed J. H. Oneill, three aldermen for terms of two years each to succeed H. P. J. McDonald, S. C. Caldwell, and A. C. Lucas.

During the past year the council has experienced several changes in its personnel. When first organized after the last election it consisted of S. C. Caldwell, Frank Stroud, J. H. Oneill, C. S. Benson, John H. Wenandy, and H. P. J. McDonald. During the first of the year, Stroud moved to Portland and resigned his office, whereupon Millard Triplett was elected to fill the vacancy. Later Alderman Triplett left the town and A. C. Lucas was elected to a seat in the council. Two weeks ago Alderman Oneill moved to California for the winter and Carlyle Triplett was chosen to fill the vacancy. At the last meeting of the council Mayor Goodwillie tendered his resignation on account of his departure to Chicago. Alderman McDonald was lifted into the mayor's chair and C. D. Brown elected as alderman to succeed Mr. McDonald.

The polls will be on the ground floor of the Johnson building and will be open from 8 a. m. to 7 p. m. C. W. Merrill, H. J. Overturf and Chas. D. Rowe have been appointed judges of election; E. J. Wright, C. D. Brown and H. P. J. McDonald, clerks.

City Council Proceedings.

At the recent meeting of the city council, in addition to filling the vacancies mentioned above, the city fathers accepted the resignation of Treasurer F. O. Minor, tendered that evening, and elected H. J. Overturf to succeed to that office. A report of the city's finances showed close to \$1,000 on hand. The bill of A. G. Long & Co., amounting to \$700 for apparatus for the fire company, was ordered paid. The bill was not due but the council paid it so as to stop interest. Aside from providing for the coming city election, no further business of interest was transacted.

LOCKYEAR IS IMPROVING.

Redmond Man Who Was Kicked in Face Sits up for Short Time.

REDMOND, Nov. 18.—We are pleased to report that E. H. Lockyear is considerably improved. The latter part of the week he sat up that his bed might be made and part of the bandages were removed from his face.

Not many of the "dead soldiers" along the way left by freighters, tourists and

others have anything to mark their resting places save the "skeletons," but a juniper at the Rock Cut Bridge over the Pilot Butte canal between Redmond and Bend bears this inscription:

D. W. OVERTON
Drank this Beer

Nov. 13, 1907, 11:45 a. m.
G—m this country,

There are no blanks or dashes on the inscription, but we put it as above not knowing that any of The Bulletin's type is not enough to print the real article.

W. L. McEwing is organizing a chorus of some 15 or 20 voices to take part in a Christmas entertainment. There is enough talent here of a modest sort to give a very excellent entertainment and under Mr. McEwing's direction it is bound to be a success.

Freighters from Shaniko to Bend and beyond whom night overtakes at O'Neill can now make Bend from there in two easy stages. A sign at B. F. Hensley's, four miles south of Redmond, gives the information that meals and feed are to be had at Juniper Heights.

The Redfield house is now occupied by a family, Brown by name, their origin geographically not being known to the reporter.

Ray Archer went out to the ditch camp last week to work and J. J. Ellinger came in from there to Sunday at home.

Walter Gillespie is home from an extended trip to North Dakota.

Because no one told the reporter of the fact we failed to note that F. F. Redmond was being visited by a brother and his wife. They expressed themselves as very well pleased with the country.

W. A. Belcher says there has been several buyers in the past week and sales were good.

H. C. PARK.

A NEW MAIL ROUTE.

Three Times a Week, from Laidlaw to Gist via Tumalo.

TUMALO, Nov. 20.—The postoffice department is now asking for bids for a new mail route from Laidlaw to Gist by way of Tumalo. The contract calls for three trips per week. This new route will be a nice little route and will no doubt pay the one who gets the contract. It will also be a great convenience for the many people along the route in the way of box service.

The snow, the beautiful snow. We have a sprinkle of the beautiful this morning, the first for this fall.

James Overton stayed over night at this place last night. Jim is hauling lumber from the Dorrance mill for the D. I. & P. Co. He drives a fine four-horse team. He knows how to care for his horses and how to get the best results from them.

We are glad to note that the sick ones at Mr. Gist's and Mr. Couch's are improving under the skillful care of Dr. Coe. George McCallister is also on the mend, we are glad to say.

Mrs. Allie Baker and daughter Millie have been visiting Mrs. Baker's father and mother, Mr. and Mrs. Geo. W. Wimer, at Tumalo for several days.

Geo. W. Wimer & Sons have been hauling hay on the Star ranch. They have quite a lot of baled hay ready for the market when the price suits them.

Chas. Spainhour succeeded in bagging two jack rabbits the other day, the first rabbits that have been seen in this part of the country for some time. The coyotes make it hot for rabbits but somehow they overlooked those two or perhaps they left them for a rainy day.

Mr. Post of the Gist neighborhood passed here yesterday on his way to Bend.

W. D. Clark is moving out on his valuable ranch near Tumalo and will take charge of the mail route from Tumalo to Bend.

Williamson Case Comes Up Dec. 2.

The appeal of ex-Congressman J. N. Williamson of Prineville will be heard by the supreme court at Washington on December 2. This is the case in which Williamson was jointly tried and convicted with Dr. Van Gesner and Marion R. Biggs. Biggs and Van Gesner are serving their sentences. Williamson took an appeal from his sentence which was to serve 10 months in jail and pay a fine of \$500.

There are good papers and poor papers. Subscribe for The Bulletin and read the good kind.